

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

DEREK FOLLEY,

Petitioner,

: Case No. 3:22-cv-065

- vs -

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

KEITH J. FOLEY, Warden,

:

Respondent.

DECISION AND ORDER

This habeas corpus case, brought *pro se* by Petitioner Derek Folley under 28 U.S.C. § 2254, is before the Court on the following Motions which are decided as shown:

1. ECF No. 180 – Objections to ECF No. 173 – Petitioner treats the Notice at ECF No. 173 as if it were an order setting a deadline for his response to the Warden’s Motion to Dismiss. It is not an order, but rather a Notice of the Court’s calculation of the deadline as prescribed by S. D. Ohio Civ. R. 7.2: twenty-one days plus an additional three days because service of the Motion to Dismiss was by mail. The Objections are therefore stricken as moot.
2. ECF No. 181 – Motion to Strike Motion to Dismiss (ECF No. 172) Petitioner seeks to have the Motion to Dismiss stricken as improperly served, but the Certificate of Service shows completely proper service of the Motion. The motion to Strike is DENIED.
3. ECF No. 182 – Motion to treat Petitioner’s Brief (ECF No. 4) as an unopposed legal pleading. This Motion is denied as moot because the Magistrate Judge has now filed a Report and

Recommendation on the merits (ECF No. 177) and it is unclear that granting this motion would have any useful impact on the litigation.

October 20, 2022.

s/ Michael R. Merz
United States Magistrate Judge